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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,018	10/16/2003	Marek Golebiowski	03-110	9145
719	7590	10/04/2004	EXAMINER	
CATERPILLAR INC. 100 N.E. ADAMS STREET PATENT DEPT. PEORIA, IL 616296490			SAN MARTIN, EDGARDO	
			ART UNIT	PAPER NUMBER
			2837	

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/687,018	Applicant(s)  GOLEBIEWSKI, MAREK	
	Examiner Edgardo San Martin	Art Unit 2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/16/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1 – 4 and 7 – 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Whitehurst et al. (US 3,866,580).

With respect to claim 1, Whitehurst et al. teach an engine compartment (Fig.1), comprising an engine enclosure (Fig.1, Item 10); a venting apparatus (Fig.1, Item 56) in fluid communication with the engine enclosure; and wherein the venting apparatus includes a venting device (Fig.4, Item 56) and a throat portion (Fig.4, Items 82 and 83).

With respect to claims 2, 3, 8 and 9, Whitehurst et al. teach further including a source of pressurized air (Fig.1, Item 39) in communication with the venting apparatus (Fig.1, Item 56), and wherein the source of pressurized air is an engine (Col.2, Lines 64 – 66), the engine being at least partially located in the engine enclosure (Fig.1, Item 10).

With respect to claims 4 and 11, Whitehurst et al. teach wherein the source of pressurized air comprises an exhaust device having an end portion located substantially upstream of the throat portion (Figs.1 and 3 – 5).

With respect to claim 7, Whitehurst et al. teach an engine compartment (Fig.1), comprising an engine enclosure (Fig.1, Item 10); a venting apparatus (Fig.1, Item 56) in fluid communication with the engine enclosure, the venting apparatus includes a throat

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portion (Fig.4, Items 82 and 83); and wherein the venting apparatus includes a geometry which increases the pressure differential at a location within the venting apparatus resulting in a higher rate of flow of engine compartment air from the engine enclosure (Figs.4 and 5; Col.4, Lines 19 – 41).

With respect to claim 10, Whitehurst et al. teach wherein the source of pressurized air discharges pressurized exhaust gas through the venting apparatus (Col.3, Lines 30 – 48).

With respect to claims 12 and 13, Whitehurst et al. teach a method of venting engine compartment air from an engine compartment using a source of pressurized air, the engine compartment includes a venting apparatus having a throat portion, comprising the steps of discharging pressurized exhaust gas from the source of pressurized air into the venting apparatus; creating a pressure differential in the venting apparatus at the throat portion; and drawing the engine compartment air into the venting apparatus as a result of the pressure differential, and wherein the source of pressurized air is an engine, and the step of discharging pressurizes exhaust gas is through an exhaust device coupled to the engine (Figs.1 and 3 – 5; Col.4, Line 47 – Col.6, line 5).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Whitehurst et al. (US 3,866,580).

Whitehurst et al. teach the limitations discussed in a previous rejection, but fail to disclose wherein the venting apparatus has a cross-section of a substantially hourglass shape.

Nevertheless, Whitehurst et al. teach an embodiment in which an exhaust pipe (Figs.1 and 3, Item 55) has a cross-section of a substantially hourglass shape (Col.3, Line 30 – Col.4, Line 16).

It would have been obvious to a person with ordinary skill in the art at the time of the invention was made to provide the venting apparatus with the hourglass shape because the hourglass configuration given to the pipe (Item 55) or to the venting apparatus would create the same change in pressure in the engine enclosure due to the venturi effect created at the downstream of the exhaust pipe, as explained by Whitehurst et al.

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Whitehurst et al. (US 3,866,580) in view of Sagner et al. (US 4,072,170).

Whitehurst et al. teach the limitations discussed in a previous rejection, but fail to disclose wherein the venting apparatus includes a gutter; and a drain member in fluid communication with the gutter.

On the other hand, Sagner et al. teach an exhaust pipe system comprising a gutter (Fig.2, Item 16); and a drain member (Fig.2, Item 15) in fluid communication with the gutter (Col.2, Line 69 – Col.3, Line 4).

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It would have been obvious to a person with ordinary skill in the art at the time of the invention was made to employ the Sagner et al. gutter/drain configuration with the Whitehurst et al. design because the gutter would collect any amount of water that could fall into the venting apparatus due to rain or could collect all the moisture that could be created due to condensation of the venting apparatus, and could drain that water/moisture out of the venting apparatus to prevent corrosion or any other damage that water/moisture may cause.

Conclusion

4. The attached hereto PTO Form 892 lists prior art made of record that the Examiner considered it pertinent to applicant's disclosure.

Contact Information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edgardo San Martin whose telephone number is (571) 272-2074. The examiner can normally be reached on 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on (571) 272-2107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "E. San Martín".

Edgardo San Martín
Patent Examiner
Art Unit 2837
Class 181
September 28, 2004